**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.353 OF 2007

Shramik Mahasangh .. Petitioner.
Vs.
Union of India & Anr. .. Respondents.

Ms.Jane Cox for the petitioner.
Mrs.Neeta Masurkar with Mrs.L.B.Patne for the Union of India.

**CORAM : SMT.RANJANA DESAI &**
**D.B.BHOSALE, JJ.**
**DATED : 18TH JUNE, 2007.**
**P.C.:**

. Heard learned counsel for the petitioner and respondent no.1 - Union of India.

2. In this petition the petitioner has challenged the order dated 18.12.2006 passed by the Government of India refusing to refer the dispute in terms of section 10(1) of the Industrial Disputes Act, 1947.

3. We have heard learned counsel for the petitioner. The learned counsel for the petitioner has placed reliance on the judgments of the Supreme Court in **Ram Avtar Sharma and Others Vs. State of Haryan and Anr. AIR 1985 Supreme Court 915 and Telco Convoy Drivers Mazdoor Sangh and Anr. Vs. State of**

**Bihar and Others AIR 1989 Supreme Court 1565**. The learned counsel contended that in considering the question of making reference under section 10(1) the Government is entitled to form an opinion whether an industrial dispute exists or is apprehended but the Government cannot adjudicate the dispute itself on its merits. The learned counsel contended that the order dated 18.12.2006 indicates that the Government has adjudicated the dispute and hence it should be set aside.

4. We have also heard learned counsel for the 1st respondent. The impugned order dated 18.12.2006 states that prima facie the Government does not consider the dispute raised by the petitioner fit for reference for adjudication because he has not submitted any evidence that he was directly or indirectly employed by the bank and was paid his salary by the bank. It is further stated that therefore no dispute subsists. In our opinion in view of this order it will not be necessary to express any opinion at this stage on the rival contentions. In our opinion at this stage the following order shall meet the ends of justice:

. The impugned order dated 18.12.2006 is quashed and set aside. The petitioner shall if he so

desires submit evidence before the 1st respondent that he was directly or indirectly employed by the bank and was paid salary by the bank or any other relevant evidence in support of his claim within a period of four weeks from today. Upon his submitting the evidence, the 1st respondent shall pass appropriate order in accordance with law and in the light of judgments of the Supreme Court referred to hereinabove within period of eight weeks thereafter. The petition is disposed of.

**(SMT.RANJANA DESAI, J.)**

**(D.B.BHOSALE, J.)**